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RUEHLM/AMEMBASSY COLOMBO PRIORITY 4673
RUEHKA/AMEMBASSY DHAKA PRIORITY 9778
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 2657
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RUCNDT/USMISSION USUN NEW YORK PRIORITY 1815
RHEFDIA/DIA WASHDC PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 1158
RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY
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C O N F I D E N T I A L KATHMANDU 001376

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E.O. 12958: DECL: 05/31/2016
TAGS: [PHUM](#) [PGOV](#) [PTER](#) [KPKO](#) [NP](#)
SUBJECT: OHCHR REPORTS 49 PEOPLE "LOST" IN NEPALESE ARMY
CUSTODY

REF: 05 KATHMANDU 2064

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b,d).

OHCHR Reports 49 Missing...

11. (U) The Office of the United Nations High Commissioner for Human Rights (OHCHR) in Nepal on May 26 recommended that the government "establish a credible, competent, impartial and fully independent investigation" into the arrest, detention, torture, and ultimate fate or whereabouts of people whom the erstwhile Royal Nepalese Army 10th Brigade held and family members reported as disappeared. Representative of OHCHR-Nepal Ian Martin made the recommendation while launching a damning report on arbitrary detention, torture and disappearances by the army in 2003. According to the report, the Army's Bhairabnath and Yuddha Bhairab Battalions (both part of the RNA's 10th Brigade) at Maharajgunj, Kathmandu detained and ill-treated 137 people between September and December 2003. Martin said that there was evidence that 49 of those people had not left Maharajgunj. "They were subjected to severe and prolonged ill-treatment and torture with the principal role played by the Bhairabnath Battalion," said Martin, adding, "at least 49 persons and probably a significantly higher number remain disappeared." Martin stated, "On the basis of consistent, credible and corroborated testimony of victims and witnesses that these people were last seen in custody in Maharajgunj, OHCHR rejects the RNA's denial of responsibility." Martin said "most former detainees interviewed by OHCHR believe that these detainees were executed." OHCHR cited the army's human rights cell's lack of response to numerous OHCHR inquiries.

...Recommends Those Responsible Not Take Part in Peacekeeping

12. (U) Martin recommended the government suspend the individuals responsible for the ill-treatment of detainees. "Those potentially implicated directly or through command responsibility for units involved should be suspended from any official duties pending the investigation, and should not

be proposed for participation in United Nations peacekeeping missions," he said. OHCHR noted that the period in question followed the breakdown of the second Maoist-government negotiations, and followed the August 28, 2003, Maoist assassination of Colonel Kiran Bahadur Basnet at his residence in Kathmandu. OHCHR reported that Lieutenant Colonel Raju Basnet, brother of the slain colonel, commanded the Bhairabnath Battalion at Maharajgunj during September to December 2003 when the torture and disappearances occurred.

Torture Methods

¶3. (U) Martin said that OHCHR documented a sufficient number of cases to conclude that a significant number of detainees were subjected to various methods of torture, including beating with plastic pipes on the lower back, legs, and soles of the feet, submersion in water, and electric shock (reftel). "In almost all cases, victims of this torture, including women, were made first to remove their clothing, and were subjected to continuous abusive and degrading language. In addition, there were acts of torture involving sexual humiliation of both male and female detainees. Detainees were repeatedly threatened with execution," Martin stated.

OHCHR Offers Cooperation in Investigations

¶4. (U) Martin noted that once the government established a high-level commission of inquiry to investigate disappearances, OHCHR would offer assistance and provide information regarding its on-going investigation into the

disappearances at Maharajgunj Barracks and all other cases of disappearances reported to it around the country. Martin noted that he had already met with Judge Krishna Jung Rayamajhi, head of the high level commission of inquiry investigating violations of human rights and abuse of power during the people's movement to offer OHCHR's assistance. Martin stressed that in all commissions of inquiry, two principles should be fully respected: those responsible for gross violations should be brought to justice; and everyone is innocent until proven guilty by a fair trial.

Comment

¶5. (C) The government must work to address the long-standing, widespread issue of disappearances, mainly from the 2003-2004 timeframe, according to OHCHR and the National Human Rights Commission. As part of this larger effort, the government should determine if the RNA extra-judicially executed any of the 49 individuals disappeared from Maharajgunj. Although the government has established a working group on disappearances, we agree with Martin that a high-level independent commission should be appointed to look into disappearances.

MORIARTY